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State/Territory: New Mexico

State Plan Amendment (SPA) #: 23-0009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services

Medical Benefits Health Programs Group

April 19, 2024

Lorelei Kellogg,
Acting Director
Medical Assistance Division
P. O. Box 2348
Sante Fe, NM 87504-2348

Dear Lorelei Kellogg,

The CMS Division of Pharmacy team has reviewed New Mexico's State Plan Amendment (SPA) 23-0009 received in the CMS Medicaid & CHIP Operations Group on July 3, 2023. This SPA proposes to amend the language provisions for coverage of select nonprescription drugs.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 23-0009 is approved with an effective date of July 1, 2023. Our review was limited to the materials necessary to evaluate the SPA under applicable federal laws and regulations.

We are attaching a copy of the signed CMS-179 form, as well as the pages approved for incorporation into New Mexico's state plan. If you have any questions regarding this amendment, please contact Charlotte Hammond at (410) 786-1092 or charlotte.hammond@cms.hhs.gov.

Sincerely,

Cynthia R. Denemark, R.Ph.
Director
Division of Pharmacy

cc: Valerie Tapia, CMS Liaison, HSD Medical Assistance Division
Dana Brown, CMS Division of Program Operations-West Branch

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 3 — 0 0 0 9

2. STATE

NM

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT



XIX



XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION
1927(d)(4) of the Social Security Act; Section 5008 of the 21st Century Cures Act; Section 2502 of the Affordable Care Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 23 \$ 0

b. FFY 24 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1.A1 pgs. 1, 2, 3

(State is removing the language in page 3 to comply with CMS' guidance as language is duplicative)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 3.1.A1 pgs. 1, 2, 3 (TN 13-01)

(State is removing the language in page 3 to comply with CMS' guidance as language is duplicative)

9. SUBJECT OF AMENDMENT

Nonprescription Drugs - New Mexico Medicaid is updating its state plan to comply with regulatory changes.

10. GOVERNOR'S REVIEW (Check One)



GOVERNOR'S OFFICE REPORTED NO COMMENT



COMMENTS OF GOVERNOR'S OFFICE ENCLOSED



NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL



OTHER, AS SPECIFIED:

Authority delegated to the Medicaid Director

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME
Lorelei Kellogg

13. TITLE
Acting Director, Medical Assistance Division

14. DATE SUBMITTED
7/3/2023

15. RETURN TO

Lorelei Kellogg, Acting Director
Medical Assistance Division
P.O. Box 2348
Santa Fe, NM 87504-2348

FOR CMS USE ONLY

16. DATE RECEIVED
7/3/2023

17. DATE APPROVED
4/19/2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
7/1/2023

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
Cynthia R. Denmark

21. TITLE OF APPROVING OFFICIAL
DIRECTOR, PHARMACY

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: NEW MEXICO

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS FOR
THE CATEGORICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

**Attachment 3.1A1
Page 1**

Citation(s)	Provision(s)
1935(d)(1)	Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits Under Part A or Part B.
1927(d)(2) and 1935(d)(2)	The Medicaid agency provides coverage for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare prescription Drug Benefit-Part D. <input checked="" type="checkbox"/> The following excluded drugs are covered: <i>("Some" drugs categories covered under the drug class) <input checked="" type="checkbox"/></i> <i>("None" of the drugs under this drug class are covered) <input type="checkbox"/></i> <input checked="" type="checkbox"/> (a) agents when used for anorexia, weight loss, weight gain as listed on the state's website. <input type="checkbox"/> (b) agents when used to promote fertility. <input checked="" type="checkbox"/> (c) agents when used for the symptomatic relief of cough and colds as listed on the state's website.

TN No. 23-0009

Approval Date 4/19/2024

Supersedes TN No. 13-01

Effective Date 07/01/2023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: NEW MEXICO

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS FOR
THE CATEGORICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

**Attachment 3.1A1
Page 2**

Citation(s)	Provision(s)
<input checked="" type="checkbox"/>	(d) prescription vitamins and mineral products.
<input checked="" type="checkbox"/>	(e) nonprescription drugs. Selective non-prescription (over the counter) medications will be covered as listed on the state's website.
<input checked="" type="checkbox"/>	(f) covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer, or its designee.

TN No. 23-0009

Approval Date 4/19/2024

Supersedes TN No. 13-01

Effective Date 7/1/23

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: NEW MEXICO

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS FOR
THE CATEGORICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

Attachment 3.1A1
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